REMARKS

Claims 1-4 and 63-77 were pending in the present application. Applicant amends independent Claims 64, 72, and 77 to clarify claimed subject matter and/or correct informalities. The original specification and drawings support these claim amendments at least at pages 5-8, 10, and 12-14. Therefore, these revisions introduce no new matter.

Claims 1-4 and 63-77 are for consideration upon entry of the present Amendment. Applicant requests favorable reconsideration of this response and allowance of the subject application based on the following remarks.

Previous Claims Rejections Under 35 USC §101

Applicant appreciates Examiner's withdrawal of the 35 U.S.C. §101 rejection from the previous Office Action.

Claim Rejections under 35 U.S.C. §112, 1st para.

Claims 63-77 and 1-4 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement.

Without conceding the propriety of the rejection, Applicant amends **independent Claims 64, 72, and 77** to clarify the subject matter. Support for these amendments may be found in the original specification at least at pages 5-8, 10, and 12-14. Thus, no new matter has been introduced. Dependent Claims 1-4, 63, 65-71, and 73-76 depend from one of independent Claims 64 and 72, respectively, and are allowable by virtue of this dependency.

Applicant respectfully submits that these claims comply with 35 U.S.C. §112, first paragraph and as a result the rejections are now moot. Applicant respectfully requests that the §112 rejections be withdrawn.

Claim Rejections under 35 U.S.C. §112, 2nd para.

Claims 63-77 and 1-4 stand rejected under 35 U.S.C. §112, as allegedly being indefinite for failing to point out and distinctly claim the subject matter.

Without conceding the propriety of the rejection, Applicant amends **independent Claims 64, 72, and 77** to clarify the subject matter. Support for these amendments is found in the original specification at least at pages 5-8, 10, and 12-14. Thus, no new matter has been introduced. Dependent Claims 1-4, 63, 65-71, and 73-76 depend from one of independent Claims 64 and 72, respectively, and are allowable by virtue of this dependency.

Applicant respectfully submits that these claims comply with 35 U.S.C. §112, second paragraph and as a result the rejections are now moot. Applicant respectfully requests that the §112 rejections be withdrawn.

Claim Rejections under 35 U.S.C. §102

Claims 64-69, 71-77, and 2-3 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 6,460,020 to Pool et al. (hereinafter "Pool"). Applicant respectfully traverses this rejection.

Without conceding the propriety of the stated rejections, and only to advance the prosecution of this application, Applicant amends **independent Claim 64**, to clarify further features of the subject matter. Amended Claim 64 now recites:

A computer-implemented method for determining values of multiple interrelated parameters of an e-commerce transaction across multiple currencies to manage a sales risk, comprising:

linking the multiple interrelated parameters of the e-commerce transaction in one or more feedback loops such that calculating each parameter affects calculating at least some of the other parameters;

wherein calculating each parameter provides an output value used as one of multiple input values for calculating at least some of the other parameters, and calculating each parameter uses as input the output values from calculating at least some of the other parameters; and

calculating the multiple interrelated parameters using output values from one calculation as input values for the next calculation until values within respective predetermined tolerance levels are achieved for each parameter;

determining the values of the multiple interrelated parameters based on the respective predetermined tolerance levels;

wherein achieving the respective predetermined tolerance levels for each parameter comprises monetary conversions, set parameters, a market spot price relating to currency, or an adjustment to a set currency price; and

addressing the sales risk based on the values of the multiple interrelated parameters.

Applicant respectfully submits that Pool discloses no such method.

Pool Fails To Disclose Predetermined Tolerance Levels, Sales Risk

Pool is directed towards an international transaction system providing pre-transactional calculations (Abstract). In Pool, a buyer selects a language from a menu, selects a catalogue and a product to purchase, selects a currency, and makes a request for a destination for shipping (Fig. 1A, col. 4, line 50; col. 5, lines 11-12, 34-35; col. 6, lines 42-43). In Pool, the customer inputs the destination for purposes of calculating the cost for packaging, shipping, taxes, duties, insurance, etc. to select correct freight charge (col. 7, lines 28-33).

In contrast, the buyer in Pool makes multiple selections to arrive at a price, which is **not** "calculating the multiple interrelated parameters using output values from one

calculation as input values for the next calculation until values within respective predetermined tolerance levels are achieved for each parameter", as recited in Applicant's Claim 64. Also, the calculations used for delivery of the product in Pool, are **not** for "determining the values of the multiple interrelated parameters based on the respective predetermined tolerance levels; wherein achieving the respective predetermined tolerance levels for each parameter comprises monetary conversions, set parameters, a market spot price relating to currency, or an adjustment to a set currency price", as recited in Applicant's Claim 64. Furthermore, Pool fails to **disclose or even mention** "addressing the sales risk based on the values of the multiple interrelated parameters", as recited in Applicant's Claim 64.

In setting forth a ground of rejection, the Office states that Claim 64 is disclosed by Pool at col. 7, lines 28-42, the citation is reproduced below for convenience.

Pool at col. 7, lines 28-42:

> At step 126, the customer inputs the destination for purposes of calculating the cost of delivering the selected product or products to that destination. This information, in conjunction with the commodity code triggers the particular calculations for packaging, shipping, taxes, duties, insurance etc. of the rest of the transaction process. This is necessary to select the correct freight routes and charge. If, for example, the destination point is within the vendor's country of origin (a determination made at step 126), the calculation of transport charges and duties is much simplified. Calculation of standard freight charges is provided, along with the optional insurance and any other charges, to the customer at step 127. This information can be displayed on the screen as soon as the customer indicates the destination point due to the simplicity of the calculations.

If the rejection is maintained, Applicant respectfully requests the Office to explain what teachings of col. 7, lines 28-42 of Pool correspond to Applicant's recited features.

In addition, the Office states Claim 64 is disclosed by Pool in Appendix II, cols. 15-16. Applicant respectfully disagrees. Appendix II merely shows freight options a customer can select from and four different ways to calculate air and sea transport costs in metric units and standard English units (col. 7, line 63 to col. 8, line 3).

The evidence cited fails to disclose each and every feature, including "calculating the multiple interrelated parameters using output values from one calculation as input values for the next calculation until values within respective predetermined tolerance levels are achieved for each parameter; determining the values of the multiple interrelated parameters based on the respective predetermined tolerance levels; wherein achieving the respective predetermined tolerance levels for each parameter comprises monetary conversions, set parameters, a market spot price relating to currency, or an adjustment to a set currency price; and addressing the sales risk, market risk, or commercial performance risk based on the values of the multiple interrelated parameters", as recited in Applicant's independent Claim 64. There is insufficient evidence to support an anticipation rejection of Applicant's Claim 64.

As Pool does not disclose each and every element, Pool fails to anticipate Claim 64. Applicant respectfully requests that the §102 rejection be withdrawn.

Independent Claim 72 recites:

> A computerized system computer-readable media for determining values of multiple interrelated parameters of an e-commerce transaction across multiple currencies, having computer-executable instructions on a processor to perform functions comprising:
> logic for linking the multiple interrelated parameters of the e-commerce transaction in one or more feedback loops such that calculating each parameter affects calculating at least some of the other parameters;
> wherein calculating each parameter provides an output value used as one of multiple input values for calculating at least some of the other

parameters and calculating each parameter uses as input the output values from calculating at least some of the other parameters; and

logic for calculating the multiple interrelated parameters using output values from one calculation as input values for the next calculation until values within respective predetermined tolerance levels are achieved for each parameter;

determining the values of the multiple interrelated parameters based on the respective predetermined tolerance levels;

wherein achieving the respective tolerance levels for each parameter comprises monetary conversions, set parameters, a market spot price relating to currency, or an adjustment to a set currency price; and

addressing a sales risk by using the values of the multiple interrelated parameters based on the respective predetermined tolerance levels.

Applicant respectfully submits that Pool discloses no such method Nowhere does Pool mention or discuss "predetermined tolerance levels and addressing a sales risk".

Independent Claim 77 recites:

A computerized system, comprising:

means for determining values of multiple interrelated parameters of an e-commerce transaction across multiple currencies, including:

means for linking the multiple interrelated parameters of the e-commerce transaction in one or more feedback loops such that calculating each parameter affects calculating at least some of the other parameters;

wherein calculating each parameter provides an output value used as one of multiple input values for calculating at least some of the other parameters, and calculating each parameter uses as input the output values from calculating at least some of the other parameters;

means for calculating the multiple interrelated parameters using output values from one calculation as input values for the next calculation until values within respective predetermined tolerance levels are achieved for each parameter; and

means for determining the values of the multiple interrelated parameters based on the respective predetermined tolerance levels;

wherein achieving the respective predetermined tolerances for each parameter comprises monetary conversions, set parameters, a market spot price relating to currency, or an adjustment to a set currency price;

means for addressing a sales risk by using the values of the multiple interrelated parameters based on the respective predetermined tolerance levels; and

means for displaying at least some of the multiple parameters to each participant in the e-commerce transaction in a respective currency of each participant.

Applicant respectfully submits that Pool discloses no such method. Nowhere does Pool mention or even discuss "predetermined tolerance levels and means for addressing a sales risk". **Independent Claims 72 and 77** are each allowable for reasons similar to those discussed above with respect to Claim 64.

Dependent Claims 65-69, 71, 73-76, and 2-3 depend directly or indirectly from one of independent Claims 64 and 72, respectively, and are allowable by virtue of this dependency. These claims are also allowable for their own recited features that, in combination with those recited in Claims 64 and 72, are not disclosed by Pool. As Pool does not disclose each and every element, Applicant respectfully requests that the §102 rejections be withdrawn.

Claim Rejections under 35 U.S.C. §103

Dependent Claims 1, 4, 63, and 70 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,460,020 to Pool as applied to Claim 64 above, in view of U.S. Patent No. 5,897,621 to Boesch et al. (hereinafter "Boesch"). Applicant respectfully traverses the rejection.

Independent Claim 64 recites in part:

> calculating the multiple interrelated parameters using output values from one calculation as input values for the next calculation until values within respective predetermined tolerance levels are achieved for each parameter;
> determining the values of the multiple interrelated parameters based on the respective predetermined tolerance levels;

wherein achieving the respective predetermined tolerance levels for each parameter comprises monetary conversions, set parameters, a market spot price relating to currency, or an adjustment to a set currency price; and

addressing the sales risk based on the values of the multiple interrelated parameters.

As explained above with respect to the rejection under 35 U.S.C. §102(b), Applicant submits that Pool fails to disclose, teach, or suggest the features of independent Claim 64.

Turning to **Dependent Claim 1,** which recites the computer-implemented method as recited in claim 64, further comprising:

determining **a cost for credit** to be extended to a participant of the e-commerce transaction, wherein the **credit is extended based upon one or more of the parameters comprising a volume of business a credit provider conducts with a participant, a type of deliverable and collateral for the credit;**

calculating a cost for exchange of a first currency to a second currency, wherein the cost of exchange is based upon one or more of the parameters comprising currencies involved in the transaction, an aggregate volume of currency exchanged by the participant and the amount of the associated transaction, and is effective for a predetermined period of time; and

calculating an aggregate price to the customer for the good or service, wherein the aggregate price comprises an aggregate of the cost of credit, the cost for exchange of currency and the amount of first currency relating to the price of the deliverable.

Applicant respectfully submits that Pool and/or Boesch, alone or in combination, fails to disclose, teach, or suggest such a method.

Pool and Boesch Fail to Teach or Suggest Determining a Cost for Credit

First, Applicant asserts the Office has failed to establish a *prima facie* case of obviousness. The Office states that Pool does not explicitly teach the features of Claims 1 and 70 (Office Action, pg. 8). Applicant agrees with this assessment.

Boesch fails to compensate for the deficiencies of Pool. Rather, Boesch is directed towards a system and method for determining approval of a multi-currency transaction (Abstract). The server accounts in Boesch represent real cash, credit, etc., corresponding to the electronic funds stored in the customer and merchant accounts (col. 4, lines 21-24). The local accounts of the customer and merchant are sometimes referred in the art as "wallets" and "cash register", respectively (col. 4, lines 29-30). Virtual and actual settlement represent movement of the electronic funds to a merchant account (col. 6, lines 21-22, 28-30). A customer user may have access to amounts in a plurality of customer currencies (col. 11, lines 7-8).

Nowhere does Boesch discuss or mention determining a cost for credit to be extended and how the credit is extended (e.g., volume of business, type of deliverable, and collateral). In contrast, Applicant's Claim 1 recites "determining a cost for credit to be extended to a participant of the e-commerce transaction, wherein the credit is extended based upon one or more of the parameters comprising a volume of business a credit provider conducts with a participant, a type of deliverable and collateral for the credit".

Thus, Pool and Boesch, alone or in combination, do not disclose, teach, or suggest "determining a <u>cost for credit to be extended</u> to a participant of the e-commerce transaction, wherein the credit is extended based upon one or more of the parameters comprising <u>a volume of business a credit provider conducts with a participant, a type of deliverable and collateral for the credit</u>", as recited in Applicant's Claim 1. Accordingly, Applicant submits that the evidence relied upon by the Office does not support the rejections made under §103(a).

Modification Renders Primary Reference Unsatisfactory for Intended Purpose

Second, the MPEP states, "if proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification" (MPEP §2143.01 V.) For example, using Boesch's transaction system in Pool would render Pool unsatisfactory for its intended purpose. In particular, the transaction system of Pool would be rendered unsatisfactory in receiving the destination input and calculating the cost of delivering the selected product, such as packaging, shipping, taxes, duties, insurance, if modified by the teachings of Boesch's multi-currency transaction system. In addition, Pool checks with the vendor that the products are available through a database, before choosing the various transport options. Therefore, the modification suggested by the Office would render Pool inoperable. Thus, there can be no motivation to combine the references as proposed.

There is Insufficient Evidence to Suggest Reason to Modify References

Third, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness... KSR Int'l Corp. v. Teleflex, Inc., Slip Op. at 14 (U.S. Apr. 30, 20076) (quoting In re Kahn, 441 F.3d 977, 988 (CA Fed. 2006)). The Office stated the reason to modify Pool to include the steps as taught by Boesch is that one would have been motivated to do so in order to insure that these parameters are linked to and dependent on other parameter, thereby enhancing the effectiveness and functionality of the system (Office Action, pg. 9). Applicant respectfully disagrees and submits that this modification is not well reasoned, because there is nothing in either of the references that would suggest this reason.

Furthermore, there is no articulated reason with some rational underpinning to support this rejection. Instead, the asserted reason relies on hindsight without evidence of articulated reasoning to propose the suggested modification. This rejection is improper for this additional reason.

Dependent Claim 70 is allowable for reasons similar to those discussed above with respect to Claim 1. For example, Pool and Boesch fail to disclose, teach or suggest "a cost of credit parameter partly determines and is partly determined by a sales price parameter; wherein the cost of credit parameter is partly determined by a creditworthiness parameter; and wherein the sales price parameter is partly determined by the creditworthiness parameter", as recited in Applicant's Claim 70.

Turning to **dependent Claim 4**, Pool and Boesch fail to disclose, teach, or suggest "discounting the cost for exchange according to a volume discount", as recited in Applicant's Claim 4. Nowhere is there any mention or discussion of this feature in the references.

Regarding **dependent Claim 63**, Pool and Boesch fail to disclose, teach or suggest "currency exchange price parameter comprising one or more of: an upper currency exchange price tolerance parameter and a lower currency exchange price tolerance parameter, and a market spot price", as recited in Applicant's Claim 63.

Dependent Claims 1, 4, 63, and 70 depend directly or indirectly from independent Claim 64, and are allowable by virtue of this dependency, as well as for additional features that they recite.

Applicant respectfully submits that Pool and Boesch, alone or in combination, do not render the claimed subject matter obvious and that the claimed subject matter, therefore,

patentably distinguishes over the cited references. For all of these reasons, Applicant respectfully request the §103(a) rejection of these claims be withdrawn.

Conclusion

Claims 1-4 and 63-77 are in condition for allowance. Applicant respectfully requests reconsideration and prompt allowance of the subject application. If any issue remains unresolved that would prevent allowance of this case, the Office is requested to contact the undersigned attorney to resolve the issue.

Respectfully Submitted,

Lee & Hayes, PLLC
421 W. Riverside Avenue, Suite 500
Spokane, WA 99201

Dated: _April 4, 2008_   By: _____
                                          Shirley Lee Anderson
                                          Reg. No. 57,763
                                          (509) 324-9256 ext. 258